



1410-72

## **LIBRARY OF CONGRESS**

### **Copyright Royalty Board**

#### **37 CFR Part 388**

**[Docket No. 16-CRB-0019-RM]**

### **Procedural Regulations for the Copyright Royalty Board: Rates and Terms for Statutory Licenses; Technical Amendment**

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Final rule; technical amendment.

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**SUMMARY:** The Copyright Royalty Judges are amending their regulations to relocate the provisions regarding coin-operated phonorecord players from the section of the Code of Federal Regulations (CFR) that contains Copyright Arbitration Royalty Panel (CARP) regulations to the section of the CFR that contains Copyright Royalty Board (CRB) regulations so that the Copyright Office may remove the outdated CARP regulation.

**DATES:** Effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Kimberly Whittle, Attorney Advisor, by telephone at (202) 707-7658 or by e-mail at [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** On October 3, 2016, the Copyright Office published a proposed rulemaking that, in part, proposes to eliminate obsolete CARP regulations from the CFR. 81 FR 67940, 67942. One of the CARP provisions, the regulation regarding rates for the

statutory license for jukeboxes, is not obsolete and is therefore the only provision that would remain.<sup>1</sup> See 37 CFR 254. That provision could have been moved to the CRB section of the CFR earlier, but because the rates have remained unchanged for many years, neither the Copyright Office nor the CRB has moved the regulation.

The Copyright Royalty Judges hereby relocate that provision by adding it to Chapter III of title 37 of the CFR, the chapter governing CRB activities.

### **List of Subjects in 37 CFR Part 388**

Copyright, Jukeboxes, Rates.

### **Final Regulations**

For the reasons set out in the preamble, the Copyright Royalty Judges amend 37 CFR chapter III by adding part 388 to read as follows:

### **PART 388--ADJUSTMENT OF ROYALTY RATE FOR COIN-OPERATED PHONORECORD PLAYERS**

#### **Sec.**

388.1 General.

388.2 Definition of coin-operated phonorecord player.

388.3 Compulsory license fees for coin-operated phonorecord players.

**Authority:** 17 U.S.C. 116, 801(b)(1).

#### **§388.1 General.**

This part 388 establishes the compulsory license fees for coin-operated phonorecord players beginning on January 1, 1982, in accordance with the provisions of 17 U.S.C. 116.

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<sup>1</sup> The Copyright Office proposed rulemaking indicated that part 256 will also remain, but the CRB recently gave notice of relocation of that part to part 387 and has notified the Copyright Office of that fact so it may now eliminate part 256 from Chapter II. *Id.*; 81 FR 62812 (Sept. 13, 2016).

### **§388.2 Definition of coin-operated phonorecord player.**

As used in this part, the term *coin-operated phonorecord player* is a machine or device that:

- (a) Is employed solely for the performance of nondramatic musical works by means of phonorecords upon being activated by insertion of coins, currency, tokens, or other monetary units or their equivalent;
- (b) Is located in an establishment making no direct or indirect charge for admission;
- (c) Is accompanied by a list of the titles of all the musical works available for performance on it, which list is affixed to the phonorecord player or posted in the establishment in a prominent position where it can be readily examined by the public; and
- (d) Affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

### **§388.3 Compulsory license fees for coin-operated phonorecord players.**

- (a) Commencing January 1, 1982, the annual compulsory license fee for a coin-operated phonorecord player shall be \$25.
- (b) Commencing January 1, 1984, the annual compulsory license fee for a coin-operated phonorecord player shall be \$50.
- (c) Commencing January 1, 1987, the annual compulsory license fee for a coin-operated phonorecord player shall be \$63.
- (d) If performances are made available on a particular coin-operated phonorecord player for the first time after July 1 of any year, the compulsory license fee for the remainder of that year shall be one half of the annual rate of paragraph (a), (b), or (c) of this section, whichever is applicable.

(e) Commencing January 1, 1990, the annual compulsory license fee for a coin-operated phonorecord player is suspended through December 31, 1999, or until such earlier or later time as the March 1990 license agreement between AMOA and ASCAP/BMI/SESAC is terminated.

Dated: November 1, 2016

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Suzanne M. Barnett  
Chief Copyright Royalty Judge

Approved by:

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Dr. Carla D. Hayden  
Librarian of Congress  
[FR Doc. 2016-27885 Filed: 11/18/2016 8:45 am; Publication Date: 11/21/2016]